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California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.111.5.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE CARMEN CORONA GARCIA,

Defendant and Appellant.

2d Crim. No. B243781
(Super. Ct. No. 2008007989)
(Ventura County)

Jose Carmen Corona Garcia appeals from an August 8, 2012 order revoking probation and sentencing him to four years state prison, to be served consecutive to a 60-month federal prison sentence. On July 9, 2008, appellant pled guilty to corporal injury to a cohabitant (Pen. Code, § 273.5, subd. (a))¹ and admitted a prior battery conviction involving the same victim (§ 273.5, subd. (e)). The trial court suspended imposition of sentence and granted four years probation with 245 days county jail.

On May 20, 2010, probation was revoked and a warrant issued because appellant was awaiting prosecution in federal court on charges of conspiracy to distribute cocaine base, distribution of cocaine base, and felon in possession of a firearm and ammunition. On April 27, 2010 appellant filed a "Motion for Credit/Time Served" requesting that the trial court grant him concurrent state time on the federal sentence.

¹ All statutory references are to the Penal Code.

Appellant's trial attorney, Martin Zaehring, appeared in state court on August 8, 2012, filed a "Waiver of Defendant's Personal Presence. (Pen C § 977(b))" signed by appellant, and admitted the probation violation on appellant's behalf. The trial court revoked probation and sentenced appellant to four years state prison to be served "consecutive to any other time." Appellant was awarded 342 actual days and 162 days conduct credit.

We appointed counsel to represent appellant in this appeal. After counsel's examination of the record, he filed an opening brief in which no issues were raised.

On January 22, 2013, we advised appellant that he had 30 days within which to personally submit any contentions or issues he wished us to consider. On February 27, 2013, appellant filed a supplemental brief stating that he admitted the probation violation in absentia based on the understanding that the trial court would impose a concurrent state prison sentence. Appellant claims that he spoke to Attorney Zaehring on August 13, 2012 and was told that the consecutive sentence was a mistake and would be straightened out.

We have reviewed the entire record and are satisfied that appellant's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 443; *People v. Kelly* (2006) 40 Cal.4th 106, 125-126.) Appellant's claim of ineffective assistance of counsel can be resolved only by reference to matters outside the record and requires that appellant seek relief by petition for writ of habeas corpus. (See *People v. Bean* (1998) 46 Cal.3d 919, 944; *People v. Pope* (1979) 23 Cal.3d 412, 426.)

The judgment is affirmed without prejudice to appellant filing a petition for writ of habeas corpus in the trial court.

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YEGAN, J.

We concur:

GILBERT, P.J.

PERREN, J.

Colleen Toy White, Judge
Superior Court County of Ventura

California Appellate Project, under appointment by the Court of Appeal,
Jonathan B. Steiner, Executive Director and Richard Lennon. Staff Attorney for
Defendant Appellant.

No appearance for Respondent.